IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FARAD CONTINUATION SHEET
SECOND APPEAL NO.50 OF 2006

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Office Notes,Office memorandum of Coram, appearances,Court's orders or directions & Registrar's orders.	Court's or Judge's orders

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Mr.M.A.Patil for the Appellant

CORAM: A.S.OKA, J.
DATED: MARCH 14, 2006.

P.C.:

1. Heard Shri Patil for the Appellant. The Appeal is by the unsuccessful Plaintiff. Shri Patil submitted that the sale deed dated 12th September 1983 was essentially executed as a part of the loan transaction and there was no intention on the part of the Appellant/Plaintiff to sell the property. He submitted that the sale deed is hit by the provisions of Prevention of Fragmentation and Consolidation of Holdings Act, 1947 and The Bombay Tenancy and Agricultural Lands Act, 1948.

2. Perusal of the Judgments of the Courts below show that on the basis evidence on record the first contention has been rejected. The finding on this aspect is

based on the appreciation of oral and documentary evidence on record which cannot be interfered with in a Second Appeal.

3. So far as the other contention regarding statutory bar is concerned, there cannot be a bar under Section 7 of the said Act of 1947 unless it is established that a notification is issued under Section 6(2) of the said Act of 1947. There is nothing on record to show that the such notification is issued under the said Act of 1947. So far as sale deed is concerned, Section 43 of the said Act of 1948 will not be attracted in this case. No substantial question of law arises. Second Appeal is dismissed with no order as to costs.

Judge.